

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 9, 2003

In Reply Refer To:
Docket No. ER02-2001-001

Hogan & Hartson LLP
Attn: John T. Stough, Jr.
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Washington, D.C. 20004

Dear Mr. Stough:

1. On December 16, 2002, Lyon Rural Electric Cooperative (Applicant) filed a request for waiver of the Order No. 2001¹ filing requirements. Notice of the application was published in the Federal Register, 68 Fed. Reg. 5,014 (2003), with comments, motions, or protests due on or before February 18, 2003. None was filed.

2. Applicant states that: (1) it is a small utility, disposing of fewer than 4,000,000 MWH annually and with an annual peak of 13,172 kW; (2) it has fewer than four full time equivalent employees engaged in accounting, billing, and regulatory activities; (3) it makes no wholesale sales at market-based rates; (4) all of its transactions subject to Commission jurisdiction are under one agreement, which is on file with the Commission; (5) it is obligated to file new jurisdictional contracts or revisions to its existing jurisdictional contract; and (6) its system is essentially radial in nature and is used solely for distribution to its members, except for the wholesale agreement with its member, the Town of Larchwood, Iowa.²

3. Order No. 2001 provided for the availability of waivers where appropriate for small entities. In Bridger Valley Electric Association, Inc., et al., 101 FERC ¶ 61,146 (2002)

¹Revised Public Utility Filing Requirements, Order No. 2001, 67 FR 31043, FERC Stats. & Regs. ¶ 31,127, reh'g denied, Order No. 2001-A, 100 FERC ¶ 61,074, reconsideration denied, Order No. 2001-B, 100 FERC ¶ 61,342 (2002).

²Provided under a tariff accepted by letter order issued on February 15, 2002 in Docket No. ER02-793-000.

(Bridger Valley), we detailed the criteria we will apply for reviewing requests for waivers. We stated therein that we would grant a waiver when an applicant is a small, non-profit cooperative primarily engaged in providing distribution services to retail customers and that applicant's transmission system is essentially radial in nature and primarily used for distribution to its member-owners. Applicant claims that it meets the criteria described in Bridger Valley.

4. We find, under the circumstances presented, that waiver is appropriate because: (1) the applicant is a small entity within the meaning of the RFA and has qualified for a waiver under Order Nos. 888 and 889,³ serves a load of 45 MW or less, and has four or fewer employees engaged in accounting, billing, and regulatory activities; (2) it does not make, or have authority to make, wholesale power sales at market-based rates; (3) the applicant makes all of its sales under one cost-based rate agreement that is on file with the Commission; (4) it is obligated to file for Commission approval any new contracts or revisions to its existing contracts; and (5) the applicant's transmission system is essentially radial in nature and primarily used for distribution to its member-owners.

5. Although the costs of compliance would be small, given the facts presented, we find that the ongoing expenses of compliance could be avoided for this applicant without harming the public interest. Applicant's rates will all remain on file and publicly available, as required by Section 205 of the Federal Power Act. The operations of this entity are so limited that granting this waiver will not compromise the ability of the Commission or the public to monitor market conditions or the applicant's conduct.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

³See Easton Utilities Commission, et al., 83 FERC ¶ 61,334 at 62,344-45 (1998).